

COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF TELECOMMUNICATION AND ENERGY

)
Investigation by the Department on its own motion)
as to the propriety of the rates and charges set forth)
in the following tariffs: M.D.T.E Nos. 14 and 17,) D.T.E. 98-57
filed with the Department on August 27, 1999, to)
become effective on September 27, 1999, by New)
England Telephone and Telegraph Company d/b/a)
Bell Atlantic – Massachusetts.)

OPPOSITION OF BELL ATLANTIC-MASSACHUSETTS
TO AT&T'S MOTION TO STRIKE

Bell Atlantic-Massachusetts ("BA-MA") opposes the Motion of AT&T Communications of New England, Inc. ("AT&T") to strike portions of BA-MA's proposed Tariff No. 17 relating to House and Riser Cable Service ("AT&T Motion"). AT&T's arguments are based on an erroneous view of the relationship between the House and Riser Cable ("H&RC") Service provisions contained in Tariff No. 17 and the compliance filing on H&RC in the Consolidated Arbitrations, D.P.U. 96-73/74, 96-75, 96-80/81, 96-83, 96-94. For the reasons described below, the Department should deny AT&T's Motion and continue its consideration of those provisions of Tariff No. 17 relating to H&RC Service. The Department should also reject AT&T's alternative proposal to consider in this proceeding the H&RC terms and conditions submitted by BA-MA in the Consolidated Arbitrations on November 24, 1999, in compliance with the Department's Phase 4-L Order ("Compliance Filing"). The Department should continue its review of the Compliance Filing in the Consolidated Arbitrations and issue a ruling regarding BA-MA's compliance with the Phase 4-L Order in that proceeding.

ARGUMENT

AT&T's Motion is based on the erroneous assumption that there is a conflict between the provisions for H&RC arrangements contained in the Compliance Filing and the provisions contained in proposed Tariff No. 17. AT&T's confusion is based, in part, on the timing of the two proceedings. Before the Department's Phase 4-L Order, BA-MA proposed that a CLEC obtaining access to H&RC from BA-MA was required to install a separate terminal block to serve as the CLEC's point of interface with BA-MA, and that any cross-connections to the BA-MA terminal block be performed by BA-MA's technicians. Phase 4-L Order, at 33-34. Terms relating to this arrangement were included in Tariff No. 17.

On October 14, 1999, the Department issued the Phase 4-L Order and found that there was "no basis for a requirement that a separate terminal block be installed between the [BA-MA] terminal block and the CLEC terminal block...[or] for a requirement that [BA-MA] technicians have the exclusive right to make the cross-connection between

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the [BA-MA] terminal block and the CLEC terminal block." Id., at 35. The Department directed BA-MA to make a compliance filing consistent with the Department's determinations on these issues. The Compliance Filing was filed on November 24, 1999. Thus, BA-MA has presently before the Department two different, but not mutually exclusive, proposals for the provision of H&RC. The proposal contained in Tariff No. 17, which no party other than AT&T has challenged, would permit the purchase of H&RC Service as originally proposed by BA-MA, i.e., with BA-MA technician's providing the cross-connections and the use of a separate point of interface terminal. Alternatively, the H&RC arrangement contained in the Compliance Filing would be provided in accordance with the Department's rulings in the Phase 4-L Order, i.e., without cross-connections provided by a BA-MA technician and without the installation of the separate point of interface terminal.

Since these are two distinct options for accessing H&RC, there is no need to strike the proposed tariff provisions or to consolidate consideration of the options in a new, separate proceeding. Consideration of both alternatives can go forward in their respective dockets. Upon approval of the Compliance Filing and the H&RC Service contained in Tariff No. 17, any CLEC will have the option of obtaining access under either arrangement. Parties to the Consolidated Arbitrations can avail themselves of the terms of the approved Compliance Filing in accordance with the Phase 4-L Order, or may take the alternative service under the terms of the tariff. Similarly, CLECs that are not parties to the Consolidated Arbitrations can select either the tariff offering or the approved Compliance Filing, once incorporated in the AT&T interconnection agreement, under the terms of Section 252(i) of the Telecommunications Act of 1996.

Thus, there is no inconsistency or conflict in the Department conducting parallel considerations of the two alternative ways to obtain access to H&RC from BA-MA. It would be appropriate, however, to clarify language in the tariff and the Compliance Filing to eliminate any confusion as to the relationship between the two methods by which CLECs may gain access to BA-MA's H&RC. The second sentence of the Compliance Filing, cited by AT&T (AT&T Motion at 2-3) can be eliminated. It states that the Compliance Filing "supplements" the terms of the tariff. Such language confuses the issue because the supplementation actually adds an alternative for H&RC Service, and should not be read to amend the tariff offering. Similarly, the language in the tariff should be amended to limit the applicability of the tariff provisions to the option using BA-MA technicians for the cross-connection services and the use of a separate point of interface terminal.

Accordingly, there is no conflict or inconsistency between the Compliance Filing and the proposal in this proceeding, and, therefore there is no justification to strike or otherwise defer consideration of the tariff proposal.

WHEREFORE, for the above reasons, BA-MA requests that the Department deny AT&T's Motion.

Respectfully submitted,

NEW ENGLAND TELEPHONE

AND TELEGRAPH COMPANY

d/b/a Bell Atlantic-Massachusetts

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